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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

United States of America: revised draft resolution

Situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Elimination of All Forms of Racial Discrimination, 3/ the Convention on the Rights of the Child, 4/ the Convention on the Prevention and Punishment of the Crime of Genocide, 5/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 6/ and other instruments of international humanitarian law, including the Geneva Conventions of 12 August 1949 for the protection of victims of war 7/ and the Additional Protocols thereto of 1977, 8/ as well as the

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1/ Resolution 217 A (III).

2/ Resolution 2200 A (XXI), annex.

3/ Resolution 2106 A (XX), annex.

4/ Resolution 44/25, annex.

5/ Resolution 260 A (III).

6/ Resolution 39/46, annex.

7/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

8/ Ibid., vol. 1125, Nos. 17512 and 17513.

principles and commitments undertaken by States members of the Conference on Security and Cooperation in Europe,

Gravely concerned at the human tragedy in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and at the continuing massive and systematic violations of human rights occurring in most of those areas, particularly in the areas of Bosnia and Herzegovina under Bosnian Serb control,

Recalling its resolution 47/147 of 18 December 1992, Commission on Human Rights resolutions 1992/S-1/1, 1992/S-2/1, 1993/7 and relevant resolutions of the Security Council,

Recalling specifically Security Council resolutions 771 (1992) of 13 August 1992, 780 (1992) of 6 October 1992, 787 (1992) of 16 November 1992, 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993 in which the Council demanded, inter alia, that all parties and others concerned in the former Yugoslavia immediately cease and desist from all breaches of international humanitarian law, requested the Secretary-General to establish a commission of experts to examine and analyse information relating to serious violations of such law being committed in the territory of the former Yugoslavia, and established an international tribunal for the prosecution of persons responsible for such violations,

Welcoming the convening of the International Tribunal and the naming of its Chief Prosecutor,

Welcoming also Security Council resolutions 824 (1993) and 836 (1993) in which the Council declared that Sarajevo, Tuzla, Zepa, Gorazde, Bihac, Srebrenica and their surroundings should be treated as safe areas and that international humanitarian agencies should be given free and unimpeded access to these areas,

Welcoming further the interim report 9/ and recommendations of the Special Rapporteur,

Expressing appreciation to all States that have cooperated with the United Nations High Commissioner for Refugees,

Recalling its resolution 47/80 of 16 December 1992, in which it condemned unreservedly "ethnic cleansing" and acts of violence arising from racial hatred, and reiterated its conviction that those who committed or ordered the commission of acts of "ethnic cleansing" were individually responsible and should be brought to justice, and noting General Assembly resolution 47/121 of 18 December 1992, in which the Assembly, inter alia, stated that the abhorrent policy of "ethnic cleansing" was a form of genocide,

Noting with appreciation the efforts of the Special Rapporteur, as well as those of the Chairman of the Working Group on Arbitrary Detention, the Special

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9/ S/26469.

Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the representative of the Secretary-General on internally displaced persons, who accompanied him on his missions,

Encouraging the continuing efforts made in the framework of the International Conference on the Former Yugoslavia to find a peaceful solution,

Welcoming the ongoing efforts of the Conference on Security and Cooperation in Europe to re-establish its presence in the Federal Republic of Yugoslavia (Serbia and Montenegro) in order to prevent further human rights violations, and deeply concerned about the decision of the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) to expel the monitoring missions of the Conference on Security and Cooperation in Europe and the European Community of long duration to Kosovo, Sandjak and Vojvodina, where the human rights situation remains a cause of great concern,

Welcoming also the efforts of the European Union, inter alia through its monitoring missions, to promote respect for human rights and fundamental freedoms in the territory of the former Yugoslavia,

Gravely concerned at the human rights situation in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and in particular at the continuing, odious practice of "ethnic cleansing", which is the direct cause of the vast majority of human rights violations there and whose principal victims are the Muslim population threatened with virtual extermination,

Noting the discriminatory policies, measures and violent actions committed against ethnic Albanians in Kosovo, and aware of the possible escalation of the situation into a violent conflict there,

Strongly rejecting policies and ideologies aimed at "ethnic cleansing" and at promoting racial and religious hatred in any form,

Alarmed that, although the conflict in Bosnia and Herzegovina is not a religious conflict, it has been characterized by the systematic destruction and profanation of mosques, churches and other places of worship, as well as other sites of cultural heritage, in particular in areas currently or previously under Bosnian Serb and Bosnian Croat control,

1. Commends the Special Rapporteur on the situation of human rights in the territories of the successor States of the former Yugoslavia for his reports; 10/

2. Expresses its grave concern at the Special Rapporteur's detailed reports of massive and systematic violations of human rights and humanitarian law in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

10/ S/26383, S/26415, S/26469.

3. Notes with grave concern the Special Rapporteur's conclusions about the impending humanitarian disaster in the Federal Republic of Bosnia and Herzegovina this winter;

4. Condemns in the strongest terms all violations of human rights and international humanitarian law in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), by all sides to the conflict, recognizing that the leadership in territory under the control of Serbs in the Republics of Bosnia and Herzegovina and Croatia, the commanders of Serb paramilitary forces and political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro) bear primary responsibility for most of these violations;

5. Condemns also the specific violations identified by the Special Rapporteur, most of which are committed in connection with "ethnic cleansing", and which include killings, torture, beatings, arbitrary searches, rape, disappearances, destruction of houses and other acts or threats of violence aimed at forcing individuals to leave their homes, as well as reports of violations of human rights in connection with detention;

6. Condemns further the indiscriminate shelling of cities and civilian areas, the systematic terrorization and murder of non-combatants, the destruction of vital services, and besieging of cities and the use of military force against civilian populations and relief operations by all sides, recognizing that the main responsibility lies with Bosnian Serbs, who have used such tactics as a matter of policy and the Bosnian Croats;

7. Supports the determination of the Security Council that all persons who perpetrate or authorize violations of international humanitarian law are individually responsible for those breaches and that the international community shall exert every effort to bring them to justice;

8. Urges all States, United Nations bodies, including the specialized agencies, and the Special Rapporteur and, as appropriate, international humanitarian organizations, to make available substantiated information in their possession or submitted to them relating to the violations and the perpetrators of such violations of international humanitarian law, including grave breaches of the Geneva Conventions, in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to the International Tribunal established by Security Council resolution 827 (1993) for prosecution, as appropriate, by the Chief Prosecutor;

9. Expresses deep concern at the number of disappearances and missing persons in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and reiterates calls on all parties to make all possible efforts to account for those missing;

10. Urges that an immediate end be brought to the continuing practice of "ethnic cleansing", and in particular that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) use their influence with the self-proclaimed Serbian authorities in Bosnia and Herzegovina and Croatia to bring the practice of "ethnic cleansing" to an immediate end and to reverse the effects of that practice;

11. Urges the Government of Croatia to use its influence with the self-proclaimed Croatian authorities in Bosnia and Herzegovina to bring the practice of "ethnic cleansing" to an immediate end and to reverse the effects of that practice;

12. Reaffirms that States are to be held accountable for violations of human rights which their agents commit upon their own territory or the territory of another State;

13. Expresses its complete support for the victims of these violations, reaffirms the right of all persons to return to their homes in safety and dignity, considers invalid all acts made under duress affecting ownership of property and other related questions, recognizes the right of victims of "ethnic cleansing" to receive just reparation for their losses, and urges all parties to fulfil their agreements to this end;

14. Condemns in particular the violations of human rights and humanitarian law in connection with detention, including killings, torture and the systematic practice of rape, and urges the immediate, internationally supervised release of all persons arbitrarily or illegally detained in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro); 7/

15. Calls for the immediate closure of all detention facilities not in compliance with the Geneva Conventions of 12 August 1949; 7/

16. Urges all parties to notify immediately the International Committee of the Red Cross of the locations of all camps, prisons and other places of detention within Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and that the International Committee of the Red Cross, the Special Rapporteur and his staff, the United Nations High Commissioner for Refugees, the monitoring and other missions of the European Union and the Conference on Security and Cooperation in Europe and other relevant international and regional organizations be granted immediate, unimpeded and continued access to such places of detention;

17. Expresses its grave concern at the deteriorating human rights situation in Serbia, particularly in Kosovo, as described in the reports of the Special Rapporteur, and strongly condemns the violations of human rights occurring there;

18. Strongly condemns in particular the measures and practices of discrimination and the violations of the human rights of the ethnic Albanians of Kosovo, as well as the large-scale repression, committed by the Serbian authorities including:

(a) Police brutality against ethnic Albanians, arbitrary searches, seizures and arrests, torture and ill-treatment during detention and discrimination in the administration of justice, which leads to a climate of lawlessness in which criminal acts, particularly against ethnic Albanians, take place with impunity;

(b) The discriminatory removal of ethnic Albanian officials, especially from the police and judiciary, the mass dismissal of ethnic Albanians from

professional, administrative and other skilled positions in State-owned enterprises and public institutions, including teachers from the Serb-run school system, and the closure of Albanian high schools and universities;

(c) Arbitrary imprisonment of ethnic Albanian journalists, the closure of Albanian-language mass media and the discriminatory removal of ethnic Albanian staff from local radio and television stations;

(d) Repression by the Serbian police and military;

19. Urges the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) to:

(a) Take all necessary measures to bring to an immediate end the human rights violations inflicted on the ethnic Albanians in Kosovo, including, in particular, discriminatory measures and practices, arbitrary detention and the use of torture, other cruel, inhuman or degrading treatment and the occurrence of summary executions;

(b) Revoke all discriminatory legislation, in particular that which has entered into force after 1989;

(c) Re-establish the democratic institutions of Kosovo, including the Parliament and the judiciary;

(d) Resume dialogue with the ethnic Albanians in Kosovo, including under the auspices of the International Conference on the Former Yugoslavia;

20. Also urges the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to respect the human rights and fundamental freedoms of ethnic Albanians in Kosovo, and expresses its view that the best means to safeguard human rights in Kosovo is to restore its autonomy;

21. Expresses its grave concern at the report by the Special Rapporteur of violations of human rights occurring in Sandjak and Vojvodina, particularly acts of physical harassment, abductions, the burning of homes, warrantless searches, confiscation of property, arbitrary arrests, the closure of political parties, and other discriminatory practices in favour of the Serbian population, which are intended to change the ethnic structure of those areas;

22. Calls for the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to allow the immediate entry of an international human rights monitoring presence into the country, particularly to Kosovo, and strongly urges the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to reconsider their refusal to allow the continuation of the activities of the missions of the Conference on Security and Cooperation in Europe in Kosovo, Sandjak and Vojvodina and to cooperate with the Conference on Security and Cooperation in Europe by taking the practical steps for the resumption of the activities of these missions as called for by the Security Council in its resolution 855 (1993) in order to prevent the extension of the conflict of those areas;

23. Reaffirms that all parties to the conflict in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) share the responsibility for finding a peaceful solution through negotiations under the auspices of the International Conference on the Former Yugoslavia, urges that human rights concerns be given proper priority in the peace process, and calls upon the parties to implement immediately all commitments made in the framework of the International Conference on the Former Yugoslavia and to reach a just and durable solution as soon as possible;

24. Urges all United Nations bodies, including the United Nations Protection Force, the United Nations human rights treaty bodies and the specialized agencies, and Governments and informed intergovernmental and non-governmental organizations to cooperate fully with the Special Rapporteur, and in particular to provide him on a continuing basis with all relevant and accurate information in their possession on the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

25. Urges all States and relevant organizations to consider implementation of the recommendations of the Special Rapporteur and his recent reports, and in particular:

(a) Welcomes the Special Rapporteur's call for the opening of humanitarian relief corridors to prevent the imminent death of tens of thousands of persons, especially in view of the lack of access to many areas in the face of the coming winter;

(b) Supports the Special Rapporteur's call for the immediate release of detainees into conditions of safety;

(c) Draws the attention of the international community to the need for an effective response to counter the policy of "ethnic cleansing" perpetrated by any side, particularly the Bosnian Serb forces, who have used such tactics as a matter of policy, and Bosnian Croat forces;

(d) Supports the request of the Special Rapporteur to the Croatian authorities to take action against those who have committed human rights violations and contravened international humanitarian standards in the Medak Pocket and to take steps to punish those responsible to prevent such incidents in the future;

(e) Welcomes the signing of the Joint Declaration with respect to Freedom of Movement of 18 November 1993, in which the signatories have solemnly agreed to ensure complete and secure freedom of movement for all personnel of the United Nations and international humanitarian organizations and which was solemnly renewed within the framework of the Geneva Conference of 29 November 1993;

26. Urges the Secretary-General to take all necessary steps to ensure the full and effective coordination of all United Nations bodies to implement the present resolution, and urges those bodies concerned with the situation in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of

Yugoslavia (Serbia and Montenegro) to coordinate closely with the Special Rapporteur and the Tribunal;

27. Also urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out his mandate and in particular to provide him with adequate staff based in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to ensure effective continuous monitoring of the human rights situation there and coordination with other United Nations bodies involved, including the United Nations Protection Force;

28. Requests the Secretary-General to give all other necessary assistance to the Special Rapporteur to enable him to fulfil his mandate;

29. Calls upon the States concerned to cooperate fully with the Special Rapporteur in order to enable him to fulfil his mandate;

30. Invites the Chief Prosecutor to consider the appointment of experts in the prosecution of crimes of sexual violence to his office;

31. Calls upon States to put experts, including experts in the prosecution of crimes of sexual violence, at the disposal of the Chief Prosecutor and the Tribunal;

32. Invites the Commission on Human Rights at its fiftieth session to request the Special Rapporteur to report to the General Assembly at its forty-ninth session;

33. Decides to continue its examination of the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) at its forty-ninth session under the item entitled "Human rights questions".